

SECTION 00800

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) have the meaning assigned to them in the General Conditions.

SUPPLEMENTARY CONDITIONS TO ARTICLE 1. DEFINITIONS AND TERMINOLOGY

SC-1.01A.7. In the first sentence of the paragraph 1.01.A.7. of the General Conditions delete "Advertisement or Invitation to Bid" and substitute "Notice to Bidders" therefore.

SC-1.01A.51. Add new paragraph 1.01.A.51., immediately after paragraph 1.01.A.50. of the General Conditions which shall read as follows:

51. "Additional Insureds", except where otherwise expressly defined, shall mean:

Board of Public Works and Safety, City of West Lafayette, Indiana
Greeley and Hansen LLC
Butler Fairman & Seufert, Inc.
Patriot Engineering and Environmental, Inc.
Fink, Roberts, and Petrie, Inc.
RW South, Inc.

SUPPLEMENTARY CONDITIONS TO ARTICLE 2. PRELIMINARY MATTERS

SC-2.02.A. Amend the first sentence of paragraph 2.02.A. of the General Conditions by striking out "ten" and inserting "five", and as so amended paragraph remains in effect.

SC-2.03.A. Delete paragraph 2.03.A. in its entirety and insert the following in its place:

The Contract Time will commence to run on the day indicated in the Notice to Proceed. In no event will the Contract Time commence to run later than 30 days after the Effective Date of the Agreement.

**SUPPLEMENTARY CONDITIONS TO ARTICLE 4. AVAILABILITY OF LANDS;
SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS**

SC-4.02 In the preparation of Drawings and Specifications, ENGINEER relied upon:

4.02.A.1. The following drawings of physical conditions in or relating to existing surface and subsurface structures which are at or contiguous to the site of the work:

West Lafayette, Indiana – Normandy Park Sanitary Sewer dated 1973

The following reports of explorations and tests of subsurface conditions at the site of the work:

A reported dated August 8, 2013, titled “Geotechnical Engineering Investigation - Sheraton & Fairway Lift Station Improvements”, prepared by Patriot Engineering and Environmental, Inc., Indianapolis, Indiana.

A reported dated November 18, 2013, titled “Geotechnical Engineering Investigation - Sheraton & Fairway Lift Station Improvements Addendum No. 1”, prepared by Patriot Engineering and Environmental, Inc., Indianapolis, Indiana.

A reported dated January 10, 2014, titled “Geotechnical Engineering Investigation - Sheraton & Fairway Lift Station Improvements Addendum No. 2”, prepared by Patriot Engineering and Environmental, Inc., Indianapolis, Indiana.

The reports listed above are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02.B. of the General Conditions and as identified and established above are incorporated therein by reference. Bidder is not entitled to rely upon other information and data utilized by ENGINEER in the preparation of Drawings and Specifications. These reports may be examined at the office of Greeley and Hansen, Indianapolis during regular business hours.

SUPPLEMENTARY CONDITIONS TO ARTICLE 5. BONDS AND INSURANCE

SC-5.04 The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide the following coverages for not less than the following amounts or greater where required by Laws and Regulations:

5.04.A.1. and 5.04.A.2. Workers' Compensation, etc. under paragraphs 5.04.A.1. and 5.04.A.2. of the General Conditions:

- | | | |
|-----|---|--------------|
| (1) | State: | Statutory |
| (2) | Applicable Federal
(e.g., Longshoreman's): | Statutory |
| (3) | Employer's Liability: | \$ 1,000,000 |

5.04.A.3., 5.04.A.4., and 5.04.A.5. Contractor's Liability Insurance under paragraphs 5.04.A.3. through 5.04.A.5. of the General Conditions which shall also include completed operations and product liability coverages and:

- | | | |
|-----|--|--------------|
| (1) | General Aggregate
(Except Products –
Completed Operations) | \$ 2,000,000 |
| (2) | Products – Completed
Operations Aggregate | \$ 2,000,000 |
| (3) | Personal and Advertising
Injury (Per Person/
Organization) | \$ 1,000,000 |
| (4) | Each Occurrence
(Bodily Injury and
Property Damage) | \$ 1,000,000 |
| (5) | Property Damage Liability Insurance will provide Explosion,
Collapse and Underground coverage where applicable. | |
| (6) | Excess Liability
General Aggregate | \$ 6,000,000 |
| | Each Occurrence | \$ 2,000,000 |

5.04.A.6. Automobile Liability:

- | | | |
|-----|------------------|--------------|
| (1) | Bodily Injury: | |
| | Each Person | \$ 500,000 |
| | Each Accident | \$ 1,000,000 |
| | Property Damage: | |

Each Accident \$ 500,000

Or

- (2) Combined Single
Limit (Bodily Injury
and Property Damage): \$ 1,000,000
Each Accident \$ 1,000,000

5.04.B.1. Include on policies as additional insureds:

Board of Public Works and Safety, City of West Lafayette, Indiana
Greeley and Hansen LLC
Butler Fairman & Seufert, Inc.
Patriot Engineering and Environmental, Inc.
Fink, Roberts, and Petrie, Inc.
RW South, Inc.

5.04.B.2. Not used.
SC-5.05 Not used.

SC-5.06 Delete paragraph 5.06 of the General Conditions in its entirety and insert the following in its place:

5.06 Property Insurance

- A. CONTRACTOR shall purchase and maintain property insurance on the Work in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in these Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
 2. be written on a Builder's Risk special causes of loss policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework and Work in transit and shall insure against at least the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
4. cover materials and equipment in transit for incorporation in the Work or stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;
5. allow for partial utilization of the Work by OWNER;
6. include testing and startup; and
7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued.

Should any of the above described policies be cancelled before the expirations date thereof, notice will be delivered in accordance with the policy provisions.

SUPPLEMENTARY CONDITIONS TO ARTICLE 6. CONTRACTOR'S RESPONSIBILITIES

SC-6.02.B. Add the following after paragraph 6.02.B. of the General Conditions:

1. Work Hours: Perform work between 7:00 a.m. and 7:00 p.m. Mondays through Fridays only. Emergency work may be performed anytime without the OWNER's written consent required in paragraph 6.3
2. Work After Hours: Night work may be established by CONTRACTOR as regular procedure with written consent of OWNER. Such consent, however, may be revoked at any time by OWNER if CONTRACTOR fails to maintain adequate equipment and supervision for proper prosecution and control of night work.

SC-6.02.D. Add the following after paragraph 6.02.C. of the General Conditions:

1. Payment of Resident Project Representative beyond Construction Contract Completion Time:

CONTRACTOR shall be responsible for both regular and overtime pay for Resident Project Representatives for observation of construction beyond the Contract Completion Time. This requirement is in effect during the time period from the Contract expiration date to the date on which OWNER receive written certification of completion from ENGINEER. CONTRACTOR shall NOT be responsible for Resident Project Representatives pay for authorized time extensions granted by OWNER.

Compute overtime pay at a rate of one and one-half of the regular rate of pay for Resident Project Representatives on actual hours worked. Regular and overtime payments will be accumulated monthly and deducted from CONTRACTOR's monthly partial payment estimates.

SC-6.06.B. Add the following after paragraph 6.06.B. of the General Conditions:

1. Within 15 days after the effective date of the Agreement, CONTRACTOR shall submit to ENGINEER for review a list in duplicate of the names of proposed manufacturers, materialmen, suppliers and subcontractors. Obtain approval of this list by OWNER prior to submission of any shop drawings or product data.

SC-6.08 Add the following 6.08.B, 6.08.C after paragraph 6.08.A. of the General Conditions:

SC-6.08.B. OWNER has obtained the following permits:

1. Indiana Department of Environmental Management Construction Permit
2. Tippecanoe County Soil and Water Conservation District / IDEM Rule 5 General Storm Water Runoff Permit
3. Tippecanoe County Petition to Encroach on a Regulated Drain

SC-6.08.C. CONTRACTOR shall comply with all permit conditions that apply to the Work or execution thereof. Conditions that apply include:

1. Deposition of excavated materials and all earthwork operations will be carried out in such a manner that soil erosion and sediment runoff to any nearby watercourse are controlled and minimized.

2. Compliance with Federal and State laws that require Work to stop and the following offices to be notified if any archaeological artifacts are uncovered during construction:

Division of Historic Preservation
(317-232-1646)

Department of the Army Corps of Engineers
(313-226-2222)

3. The CONTRACTOR shall not impede the navigation of such waters, nor injure, damage, impair or endanger any bridge, highway, railroad, public work or utility, or the property of a riparian owner, adjoining proprietor or adjacent permittee, nor endanger the safety of the public or lives of individuals.

SC-6.09.D. Add the following new paragraph after paragraph 6.09.C. of the General Conditions which shall read as follows:

- D. Financing of this project will be through the State Revolving Fund administered by the Indiana Finance Authority.

SC-6.10 Add the following language at the end of paragraph 6.10 of the General Conditions:

Materials and equipment that are purchased for this project that will become the property of the OWNER are exempt from sales tax. CONTRACTORS purchasing materials or equipment for the project shall register with the Indiana Department of Revenue for the sales tax exemption. To register, a federal tax ID number, a business address and a fee are required.

SC-6.13 Add the following new paragraphs 6.13.A.4., 6.13.A.5., 6.13.A.6., and 6.13.A.7. after paragraph 6.13.A.3. of the General Conditions which shall read as follows:

4. No Duty. The duty of the OWNER or ENGINEER to observe CONTRACTOR's performance does not include any review of the adequacy of CONTRACTOR's safety measures in, on, or near the Work site or sites. ENGINEER has not been retained or compensated to provide design and construction review services relating to CONTRACTOR's safety precautions required for CONTRACTOR to perform the Work.
5. No Liability. Neither the OWNER, nor any official or employee of the OWNER, nor the ENGINEER, or any authorized assistant or agent of any of them, shall be responsible for safety precautions and

programs in connection with the Work or any liability arising therefrom.

6. Protection of OWNER's Operations. The CONTRACTOR shall take all necessary precautions so as to cause no unauthorized interruption in any essential part of the wastewater sewer system. Sewer system operations must be maintained at the same level during construction as existed prior to construction.

Shutdowns for construction Work shall be scheduled in advance (minimum 14 days advance notice), carefully planned, and shall be carried out in close cooperation with the OWNER.

The OWNER shall retain the authority to require the cessation of construction activities and return to service of any component of the wastewater collection system should the need arise.

7. Special Requirements for Structural Design. All structures to be provided by the CONTRACTOR, (except those structures for which details are shown on the Drawings), that require structural design shall be designed and constructed under the observation of a structural engineer, registered in the State of the Project, acting for and retained by the CONTRACTOR. Drawings and calculations for such structures shall be prepared and sealed by the structural engineer and submitted to the ENGINEER for record. A clear outline of the proposed construction procedure shall be shown on the drawings. A statement in writing by the structural engineer attesting that said engineer has visited the Work site or sites, that the design does satisfy the conditions as actually encountered and that the actual construction conforms to the drawings and calculations, as submitted, must be submitted to the ENGINEER before the Work related to such structures will be considered complete.

All temporary structures, including sheeting and bracing for excavations, that affect the safety of the public, workmen, inspectors, or OWNER's or ENGINEER's personnel shall be regarded as structures that require structural design.

SC-6.17.E Add a new paragraph 6.17.E.4. immediately after paragraph 6.17.E.3. of the General Conditions which is to read as follows:

4. ENGINEER, generally, will process shop drawings and return them to the CONTRACTOR in not more than 10 working days from day of receipt. If the nature of the shop drawing is such that the review cannot be completed in 10 working days, ENGINEER will advise the CONTRACTOR giving a schedule for performing the review.

SC-6.21 Add a new paragraph 6.21 immediately after paragraph 6.20 of the General Conditions which is to read as follows:

6.21 Confined Space Entry

CONTRACTOR shall be responsible for establishing and implementing a confined space entry program in accordance with 29 CFR 1910 and other pertinent laws or regulations. CONTRACTOR shall require all subcontractors to implement and comply with CONTRACTOR's confined space entry program.

SUPPLEMENTARY CONDITIONS TO ARTICLE 7. OTHER WORK

SC-7.02 Add a new paragraph 7.02.C. immediately after paragraph 7.02.B. of the General Conditions which shall read as follows:

- C. Should CONTRACTOR cause damage to the Work or property of any separate CONTRACTOR at the site, or should any claim arising out of CONTRACTOR's performance of the Work at the site be made by any separate contractor against CONTRACTOR, OWNER, ENGINEER, ENGINEER's Consultants, or any other person, CONTRACTOR shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold OWNER, ENGINEER, and ENGINEER's Consultants harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against OWNER, ENGINEER, or ENGINEER's Consultants to the extent based on a claim arising out of CONTRACTOR's performance of the Work. Should a separate contractor cause damage to the Work or property of CONTRACTOR or should the performance of Work by any separate contractor at the site give rise to any other claim, CONTRACTOR shall not institute any action, legal or equitable, against OWNER, ENGINEER, or ENGINEER's Consultants or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from OWNER, ENGINEER, or ENGINEER's Consultants on account of any such damage or claim. If CONTRACTOR is delayed at any time in performing or furnishing Work by any act or neglect of a separate contractor and OWNER and CONTRACTOR are unable to agree as to the extent of any adjustment in Contract Times attributable thereto, CONTRACTOR may make a claim for an extension of times in accordance with Article 12. An extension of the

Contract Times shall be CONTRACTOR's exclusive remedy with respect to OWNER, ENGINEER, and ENGINEER's Consultants for any delay, disruption, interference or hindrance caused by any separate contractor. This paragraph does not prevent recovery from OWNER, ENGINEER, or ENGINEER's consultant for activities that are their respective responsibilities.

SUPPLEMENTARY CONDITIONS TO ARTICLE 9. ENGINEER'S STATUS DURING CONSTRUCTION

SC-9.04 Delete the first sentence of paragraph 9.04A of the General Conditions and insert the following in its place:

- A. ENGINEER will issue, within five working days of receipt, such written clarifications or interpretations of the requirement of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from Contract Documents. If ENGINEER determines, based upon the nature of the requested clarification or interpretation, that the response cannot be furnished in five working days, ENGINEER will advise the CONTRACTOR giving a schedule for furnishing the information.

SUPPLEMENTARY CONDITIONS TO ARTICLE 11. COST OF WORK; CASH ALLOWANCES; UNIT PRICE WORK

SC-11.03 Delete paragraph 11.03.C of the General Conditions in its entirety and insert the following in its place:

- C. The unit price of an item of Unit Price Work shall be subject to re-evaluation and adjustment under the following conditions:
 1. If the total cost of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement: and
 2. If there is no corresponding adjustment with respect to any other item of Work; and
 3. If CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof; or if OWNER believes that the quantity variation entitles OWNER to an adjustment in the unit price, either OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Paragraph 10.05

if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

SUPPLEMENTARY CONDITIONS TO ARTICLE 12. CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

SC-12.06 Delete paragraph 12.06 of the General Conditions in its entirety and insert the following in its place:

12.06 Delay Damages

- A. No claim for payment, compensation or adjustment of any kind (other than the extensions of time provided for herein) shall be made or asserted against the OWNER or ENGINEER by the CONTRACTOR for damages caused by hindrances or delays from any cause, whether such hindrances or delays be avoidable or unavoidable, and the CONTRACTOR shall make no claim for damages by reason of any such hindrances or delays, and will accept in full satisfaction of such hindrances or delays an extension of time to complete the performance of the Work as specified.

SUPPLEMENTARY CONDITIONS TO ARTICLE 13. TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC-13.03 Delete paragraph 13.03.B of the General Conditions in its entirety and insert the following in its place:

- B. Contractor shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests or approvals required by the Contract Documents except as otherwise specifically provided in the Contract Documents.

SUPPLEMENTARY CONDITIONS TO ARTICLE 14. PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.05 Add a new paragraph immediately after paragraph 14.05.A.2. of the General Conditions, which is to read as follows:

3. OWNER may at any time request CONTRACTOR in writing to permit OWNER to take over operation of any such part of the Work although it is not substantially complete. A copy of such request will be sent to ENGINEER and within a reasonable time thereafter OWNER, CONTRACTOR and ENGINEER shall make an inspection

of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If CONTRACTOR does not object in writing to OWNER and ENGINEER that such part of the Work is not ready for separate operation by OWNER, ENGINEER will finalize the list of items to be completed or corrected and will deliver such lists to OWNER and CONTRACTOR together with a written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance warranties and guarantees for that part of the Work which will become binding upon OWNER and CONTRACTOR at the time when OWNER takes over such operation (unless they shall have otherwise agreed in writing and so informed ENGINEER). During such operation and prior to Substantial Completion of such part of the Work, OWNER shall allow CONTRACTOR reasonable access to complete or correct items on said list and to complete other related Work.

SC-14.10 Add a new paragraph immediately after paragraph 14.09 of the General Conditions, which is to read as follows:

14.10 Audits, Access to Records

- A. The Contractor shall maintain books, records, documents, and other evidence directly pertinent to performance of work under this agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this agreement. The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of the cost submission required for any negotiated change order and a copy of the cost summary submitted to the OWNER.
- B. The OWNER or any of its authorized representatives shall have access to all such books, records, documents, and other evidence for the purpose of inspection, audit and copying during normal business hours. The Contractor will provide proper facilities for such access and inspection.
- C. The Contractor agrees to make paragraphs A. through C. of this clause applicable to all negotiated change orders and agreement amendments affecting the agreement price.
- D. Audits conducted under this provision shall be in accordance with generally accepted auditing standards.

SUPPLEMENTARY CONDITIONS TO ARTICLE 17. MISCELLANEOUS

SC-17.06 Add a new paragraph immediately after paragraph 17.05 of the General Conditions, which is to read as follows:

17.06 Wage Rates

Wage rates for the Work shall not be less than the prescribed United States Department of Labor, General Decision No. IN140006 attached as **Exhibit A** to these Supplementary Conditions, as modified and in effect on the date of receipt of sealed Bids provided in Section 00100 Notice to Bidders.

Bidders may obtain the wage rates from the following website:

<http://www.wdol.gov/dba.aspx>

- 1) Browse All Determinations By State
- 2) Click on Indiana
- 3) Select Tippecanoe County – Heavy or Highway

SC-17.07 Add a new paragraph immediately after paragraph 17.06 of the General Conditions, which is to read as follows:

17.07 Disadvantaged Business Enterprise:

The CONTRACTOR shall take all necessary affirmative steps to assure that minority and women's business enterprises are used when possible. Affirmative steps shall include taking the following actions for all of these three (3) types of enterprises:

- A. Placing qualified enterprises on solicitation lists.
- B. Assuring that these enterprises are solicited whenever they are potential sources.
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by these enterprises.
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by these enterprises.
- E. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- F. Requiring each subcontractor to take the affirmative steps A. through E. above.

Disadvantaged Business Enterprise forms and guidance are attached as **Exhibit B** to the Supplementary Conditions.

SC-17.08 Add a new paragraph immediately after paragraph 17.07 of the General Conditions, which is to read as follows:

17.08 Prohibition of Discrimination

The CONTRACTOR agrees:

- A. That in the hiring of employees for the performance of work under this Contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;
- B. That no contractor, subcontractor, or any person on his behalf shall in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, national origin or ancestry;
- C. That there may be deducted from the amount payable to the contractor under this contract, a penalty of five dollars [\$5.00] for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Contract; and
- D. That this Contract may be canceled or terminated by the OWNER and all money due to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the Contract.

SC-17.09 Add a new paragraph immediately after paragraph 17.08 of the General Conditions, which is to read as follows:

17.09 Severability

- A. If any portion of the Contract Documents is invalid or unenforceable pursuant to applicable law, such portion shall be void in the jurisdiction where it is invalid or unenforceable, and the remainder of the Contract Documents shall remain binding upon the parties hereto.

SC-17.10 Add a new paragraph immediately after paragraph 17.09 of the General Conditions, which is to read as follows:

17.10 Compliance With E-Verify Program.

- A. Pursuant to IC 22-5-1.7, CONTRACTOR shall enroll in and verify the work eligibility status of all newly hired employees of CONTRACTOR through the E-Verify Program ("Program"). CONTRACTOR is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.
- B. CONTRACTOR and its Subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that CONTRACTOR or its Subcontractor subsequently learns is an unauthorized alien. If CONTRACTOR violates this Section 17.10, OWNER shall require CONTRACTOR to remedy the violation not later than thirty (30) days after OWNER notifies CONTRACTOR. If CONTRACTOR fails to remedy the violation within the thirty (30) day period, OWNER shall terminate the contract for breach of contract. If OWNER terminates the contract, CONTRACTOR shall, in addition to any other contractual remedies, be liable to OWNER for actual damages. There is a rebuttable presumption that CONTRACTOR did not knowingly employ an unauthorized alien if CONTRACTOR verified the work eligibility status of the employee through the Program.
- C. If CONTRACTOR employs or contracts with an unauthorized alien but OWNER determines that terminating the contract would be detrimental to the public interest or public property, OWNER may allow the contract to remain in effect until OWNER procures a new contractor.
- D. CONTRACTOR shall, prior to performing any work, require each Subcontractor to certify to CONTRACTOR that the Subcontractor does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. CONTRACTOR shall maintain on file a certification from each Subcontractor throughout the duration of the Project. If CONTRACTOR determines that a Subcontractor is in violation of this Section 17.10, CONTRACTOR may terminate its contract with the Subcontractor for such violation. Such termination may not be considered a breach of contract by CONTRACTOR or the Subcontractor.
- E. CONTRACTOR and its Subcontractors shall, prior to performing any work, submit executed affidavits which state they will not knowingly employ illegal aliens. An affidavit (approved by the State Board of Accounts) can be obtained from the following website: <http://www.citiesandtowns.org/egov/docs>.

END OF SECTION